IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 27779 of 1995

Between:

1 Boddeti Suryanarayana S/o. Late Ramulu
R/o. Kothavenkojipalem Visakhapatnam, Visakhapatnam District.
2 Tatipudi Gaviresu S/o. Late Gurayya
R/o. Kothavenkojipalem Visakhapatnam, Visakhapatnam Dist
3 Ponduru Bibi W/o.Late Ramana
R/o. Kothavenkojipalem Visakhapatnam, Visakhapatnam Dist.

..... PETITIONERS

AND

1 The District Collector, Visakhapatnam, Visakhapatnam District.
2 The Project Director, A.D.B. Circle, NH-5 Visakhapatnam.
3 The Mandal Revenue Officer, Visakhapatnam, Visakhapatnam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondents in directing the petitioners herein to vacate their houses situated in S.Nos.1 and 21 of Venkojipalem, Visakhapatnam for demolition for widening NH 5 without paying compensation under the L.A. Act, as illegal, arbitrary, high handed and violative of Articles 21 and 300-A of the Constitution of India and consequently direct the respondents to invoke the provisions of L.A. Act for Acquisition of the houses of the petitioners situated in S.Nos.1 & 21 of Venkojipalem and to pay compensation

Counsel for the Petitioner: MR.A.V.SESHA SAI

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents in directing the petitioners to vacate their houses situated in S.Nos.1 and 21 of Venkojipalem, Visakhapatnam for demolition for widening NH 5 without paying compensation under the Land Acquisition Act, as illegal and to direct the respondents to invoke the provisions of L.A. Act for acquisition of the houses of the petitioners situated in S.Nos.1 & 21 of Venkojipalem and to pay compensation.

The averments in the affidavit filed in support of the petition, in brief, are as follows:

It is stated that the petitioners along with some others occupied small extents i.e., 96 sq. yards of land by each petitioner in S.Nos. 1 and 21 of Venkojipalem village of Visakhapatnam adjacent to S.No.19/3, in the year 1950 and they are residing therein by raising thatched houses and that in response to their representation in the year 1977, they were granted house site pattas by the Tahsildar, Visakhapatnam and pursuant to the said grant, they constructed pucca houses by spending huge amounts and they are also paying property taxes to the Municipal Corporation. While so, the Resident Engineer, R & B, Visakhaptanam sent a requisition for acquisition of lands in S. Nos. 1 and 21 of Venkojipalem for widening of NH 5 road and thereupon the 1st respondent issued instructions to the 3rd respondent and the 3rd respondent in turn asked the petitioners to vacate the premises but he did not mention about the compensation. It is further stated that the Special Deputy Collector, NH 5, Visakhapatnam acquired the houses situated in the adjacent S.No.19/3 only after due payment of compensation under the provisions of the Land Acquisition Act and passed an Award No.17/92 dt. 30-4-1992. But, in the instant case, they are not adopting the procedure adopted earlier. Thus, the action of the respondents in directing the petitioners to vacate the premises for demolition without paying any compensation is illegal. Hence, the writ petition.

Heard both sides.

The main contention urged by the learned Counsel appearing on behalf of the

petitioners is that the respondents are contemplating to dispossess the petitioners from their lands and houses situated in S.Nos. 1 & 21 of Venkojipalem, Visakhapatnam, without following the due process of law and hence sought for a direction to the respondents not to disturb the petitioners, without following the due process of law.

I have perused the material available on record and the averments. While admitting the writ petition, on 8th December 1995 interim stay of dispossession of the petitioners was granted by this Court. Copies of orders of assignment of house sites of the Tahsildar, Visakhapatnam, disclose that the house sites in question were assigned to the petitioners and from the date of assignment, they have been residing by constructing pucca houses and by paying the necessary taxes. Now, the apprehension of the petitioners is that the respondents-authorities are resorting to evict them from their houses, for the purpose of widening the road, without following due process of law.

In view of the facts of the case, it can be said that it is only an apprehension of the petitioners, but as a matter of fact, there is no material on record to show that the respondents have initiated any action in this regard. In that view of the matter, it would suffice, if a direction is given to the respondents not to dispossess the petitioners if they are still in possession as on today. In case the respondents-authorities desire to acquire the land in question for the purpose of road widening, they are at liberty to do so in accordance with law.

Subject to the above direction, the writ petition is disposed of. No costs.

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T. MEENA KUMARI, J

Dt. 30/12/2004

Kvrk

To

1 The Dist Collector, Visakhapatnam, Visakhapatnam Dist.
2 The Project Director A.D.B. Circle, NH-5 Visakhapatnam.
3 The Mandal Revenue Officer, Visakhapatnam, Visakhapatnam Dist.

4 Two CCs to GP for Revenue, High Court Buildings, Hyderabad(OUT)

5. Two CD copies.